

THIS OPINION IS NOT A  
PRECEDENT OF THE TTAB

Mailed: October 24, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

—  
Trademark Trial and Appeal Board  
—

*In re Innovative Pet Products Pty Ltd.*  
—

Application Serial No. 90093231  
Application Serial No. 90093238  
—

Samantha C. Markley of Loza & Loza LLP for Innovative Pet Products Pty Ltd.

Natalie M. Polzer, Trademark Examining Attorney, Law Office 108,  
Kathryn E. Coward, Managing Attorney.

—  
Before Bergsman, Greenbaum, and Dunn,  
Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

Innovative Pet Products Pty Ltd. (“Applicant”) seeks registration on the Principal Register of the marks LICKMAT and LICK MAT, both in standard characters, and both for the goods listed below:

Feeding receptacles for pets, namely, bowls, dishes, and troughs, all for feeding, in International Class 21; and

Pet amusement mats being pet toys; pet toys; chewable pet toys, in International Class 28.<sup>1</sup>

The Examining Attorney refused to register Applicant's marks under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), on the ground that LICKMAT and LICK MAT are merely descriptive of feeding receptacles for pets and pet amusement mats and toys. According to the Examining Attorney,

The applicant intends to use LICKMAT and LICK MAT in connection with feeding receptacles for pets, pet amusement mats and pet toys. As the evidence of record shows, the individual components of the proposed marks and the combination of terms, in the context of the applicant's goods, merely describe the applicant's feeding receptacles, amusement mats and pet toys which are in the form of a mat designed to encourage repetitive licking by pets.<sup>2</sup>

The Board consolidated the appeals in its June 15, 2022 order.<sup>3</sup> Because the record for each application largely is the same, rather than provide duplicate citations, we refer to the record in Serial No. 90093231.

Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), prohibits registration on the Principal Register of "a mark which, (1) when used on or in connection with

---

<sup>1</sup> Application Serial No. 90093231 (LICKMAT) and Serial No. 90093238 (LICK MAT) were filed on August 4, 2020, under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), based upon Applicant's bona fide intention to use the marks in commerce.

When we refer to the record, we cite to the Trademark Status and Document Retrieval system (TSDR) in the downloadable .pdf format. When we refer to the briefs, we cite to TTABVUE, the Board's online docket system.

<sup>2</sup> Examining Attorney's Brief (6 TTABVUE 4).

<sup>3</sup> 9 TTABVUE.

the goods of the applicant is merely descriptive . . . of them,” unless the mark has acquired distinctiveness under Section 2(f) of the Act, 15 U.S.C. § 1052(f).<sup>4</sup>

“A term is deemed to be merely descriptive of goods or services, within the meaning of Section 2(e)(1), if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services.” *In re Fallon*, 2020 USPQ2d 11249, at \*7 (TTAB 2020) (quoting *In re Canine Caviar Pet Foods, Inc.*, 126 USPQ2d 1590, 1598 (TTAB 2018) (citing *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); *In re TriVita, Inc.*, 783 F.3d 872, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015); and *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978)). “A mark need not immediately convey an idea of each and every specific feature of the goods in order to be considered merely descriptive; it is enough if it describes one significant attribute, function or property of the goods.” *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1513 (TTAB 2016) (citing *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987)).

“[A] mark need not be merely descriptive of all recited goods or services in an application. A descriptiveness refusal is proper ‘if the mark is descriptive of any of the [goods] for which registration is sought.’” *Chamber of Commerce*, 102 USPQ2d at 1219 (quoting *In re Stereotaxis Inc.*, 429 F.3d 1039, 77 USPQ2d 1087, 1089 (Fed. Cir. 2005)). Accordingly, the Examining Attorney need only show that the proposed marks are merely descriptive of one of the products in each class of goods in each application.

---

<sup>4</sup> Applicant does not claim that its proposed marks have acquired distinctiveness.

“Whether a mark is merely descriptive is ‘evaluated in relation to the particular goods for which registration is sought, the context in which it is being used, and the possible significance that the term would have to the average purchaser of the goods because of the manner of its use or intended use,’” *Fallon*, 2020 USPQ2d 11249, at \*7 (quoting *Chamber of Commerce*, 102 USPQ2d at 1219) (internal quotation omitted)), and “not in the abstract or on the basis of guesswork.” *Id.* (quoting *Fat Boys*, 118 USPQ2d at 1513) (citing *Abcor Dev.*, 200 USPQ at 218)). “We ask ‘whether someone who knows what the goods and services are will understand the mark to convey information about them.’” *Id.* (quoting *Real Foods Pty Ltd. v. Frito-Lay N. Am., Inc.*, 906 F.3d 965, 128 USPQ2d 1370, 1374 (Fed. Cir. 2018) (quoting *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012) (internal quotation omitted)). A mark is suggestive, and not merely descriptive, if it requires imagination, thought, and perception on the part of someone who knows what the goods or services are to reach a conclusion about their nature from the mark. *Id.* (citing *Fat Boys*, 118 USPQ2d at 1515).

Applicant’s proposed marks consist of the words LICK and MAT. “We must ‘consider the *commercial impression* of a mark as a whole.’” *Id.* (quoting *Real Foods*, 128 USPQ2d at 1374). “In considering [the] mark as a whole, [we] ‘may not dissect the mark into isolated elements,’ without consider[ing] . . . the entire mark,” *id.* (quoting *Real Foods*, 128 USPQ2d at 1374) (internal quotation omitted), “but we ‘may weigh the individual components of the mark to determine the overall impression or the descriptiveness of the mark and its various components.’” *Id.* (quoting *Real Foods*,

128 USPQ2d at 1374) (internal quotation omitted)). “Indeed, we are ‘required to examine the meaning of each component individually, and then determine whether the mark as a whole is merely descriptive.’” *Id.* (quoting *DuoProSS*, 103 USPQ2d at 1758).

“Where a mark consists of multiple words, the mere combination of descriptive words does not necessarily create a non-descriptive word or phrase.” *In re Omniome, Inc.*, 2020 USPQ2d 3222, at \*4 (TTAB 2019). “If the words in the proposed mark are individually descriptive of the identified goods, we must determine whether their combination ‘conveys any distinctive source-identifying impression contrary to the descriptiveness of the individual parts.’” *Fallon*, 2020 USPQ2d 11249, at \*7 (quoting *Fat Boys*, 118 USPQ2d at 1515-16) (internal quotation omitted)). “If each word instead ‘retains its merely descriptive significance in relation to the goods, the combination results in a composite that is itself merely descriptive.’” *Id.* (quoting *Fat Boys*, 118 USPQ2d at 1516) (internal quotation omitted)). “A mark comprising a combination of merely descriptive components is registrable only if the combination of terms creates a unitary mark with a non-descriptive meaning, or if the composite has a bizarre or incongruous meaning as applied to the goods or services.” *Omniome, Inc.*, 2020 USPQ2d 3222, at \*4.

“Whether a mark is merely descriptive or not is determined from the viewpoint of the relevant purchasing public.” *Id.*, at \*5 (quoting *In re Stereotaxis, Inc.*, 429 F.3d 1039, 77 USPQ2d 1087, 1090 (Fed. Cir. 2005) (internal quotation omitted)). The goods identified in the applications are (1) “Feeding receptacles for pets, namely, bowls,

dishes, and troughs, all for feeding” and (2) “Pet amusement mats being pet toys; pet toys; chewable pet toys.” Thus, our analysis focuses on the viewpoint of pet owners and retailers of pet supplies.

“Evidence of the public’s understanding of [a] term . . . may be obtained from any competent source, such as purchaser testimony, consumer surveys, listings in dictionaries, trade journals, newspapers[,] and other publications.” *Fallon*, 2020 USPQ2d 11249, at \*7 (quoting *Real Foods*, 128 USPQ2d at 1374). “These sources may include [w]ebsites, publications and use in labels, packages, or in advertising materials directed to the goods [or services].” *Id.*, at \*7-8 (quoting *In re N.C. Lottery*, 866 F.3d 1363, 123 USPQ2d 1707, 1710 (Fed. Cir. 2017) (internal quotation omitted)). “Evidence that a term is merely descriptive similarly may come from an applicant’s own usage other than that found on its labels, packaging or advertising materials.” *Omnioime*, 2020 USPQ2d 3222, at \*4.

“It is the Examining Attorney’s burden to show, prima facie, that a mark is merely descriptive of an applicant’s goods or services.” *Fallon*, 2020 USPQ2d 11249, at \*8 (quoting *Fat Boys*, 118 USPQ2d at 1513). “If such a showing is made, the burden of rebuttal shifts to the applicant.” *Id.* (quoting *Fat Boys*, 118 USPQ2d at 1513). “The Board resolves doubts as to the mere descriptiveness of a mark in favor of the applicant.” *Id.* (quoting *Fat Boys*, 118 USPQ2d at 1513).

We start our analysis of the facts by defining the words that comprise Applicant’s marks LICKMAT and LICK MAT. In this regard, the absence of a space between the two words “Lick” and “Mat” in Applicant’s mark LICKMAT is an inconsequential

difference that even if noticed or remembered by consumers does not distinguish these marks. See *In re ING Direct Bancorp*, 100 USPQ2d 1681, 1690 (TTAB 2011) (finding “Person2Person Payment” generic despite deletion of spaces); *Giersch v. Scripps Networks Inc.*, 90 USPQ2d 1020, 1025 (TTAB 2009) (finding that DESIGNED TO SELL does not create a distinct commercial impression from DESIGNED2SELL); *In re Cox Enters. Inc.*, 82 USPQ2d 1040, 1043 (TTAB 2007) (“THEATL is simply a compressed version of the descriptive term THE ATL without a space between the two words. Without the space, THEATL is equivalent in sound, meaning and impression to THE ATL and is equally descriptive of applicant's goods”); *In re Planalytics Inc.*, 70 USPQ2d 1453, 1455-56 (TTAB 2004) (GASBUYER merely descriptive of providing on-line risk management services in the field of pricing and purchasing decisions for natural gas; the absence of the space does not create a different meaning or perception of the term); *Minn. Mining & Mfg. Co. v. Addressograph-Multigraph Corp.*, 155 USPQ 470, 472 (TTAB 1967) (“It is almost too well established to cite cases for the proposition that an otherwise merely descriptive term is not made any less so by merely omitting spaces between the words.”).

The MERRIAM-WEBSTER DICTIONARY ([merriam-webster.com](http://merriam-webster.com)) defines “Lick,” inter alia, as “to draw the tongue over,” and “to lap with or as if with the tongue.”<sup>5</sup> It defines

---

<sup>5</sup> February 9, 2022 Request for Reconsideration (TSDR 20-21). The MERRIAM-WEBSTER DICTIONARY ([merriam-webster.com](http://merriam-webster.com)) (accessed October 21, 2022) defines “Lap,” inter alia, as “to take in (food or drink) with the tongue.” The Board may take judicial notice of dictionary definitions, including online dictionaries that exist in printed format or have regular fixed editions. *In re Cordua Rests. LP*, 110 USPQ2d 1227, 1229 n.4 (TTAB 2014), *aff'd*, 823 F.3d 594, 118 USPQ2d 1632 (Fed. Cir. 2016); *In re S. Malhotra & Co. AG*, 128 USPQ2d 1100, 1104 n.9 (TTAB 2018); *In re Red Bull GmbH*, 78 USPQ2d 1375, 1378 (TTAB 2006).

“Mat,” inter alia, as “a piece of coarse, woven plaited, or felted fabric used especially as a floor covering or a support” and “a decorative piece of material used under a small item (such as a dish) especially for support or protection.”<sup>6</sup> Thus, a LICKMAT or LICK MAT is a mat for licking.

We now turn to the other evidence to see whether LICKMAT or LICK MAT in their entirety convey a different commercial impression than that engendered by their dictionary definitions discussed above. The Examining Attorney submitted the following evidence:

- “Lick Mats for Dogs: Our Dog-Tested Review,” posted on The Dog People website (rover.com).

### **What are Lick Mats for Dogs?**

Lick mats are a type of enrichment toy for dogs and cats, like puzzle toys. These mats come in various shapes and sizes, and the concept is designed for you to apply a dog-friendly snack, like peanut butter, soft banana, or yogurt to the mat to encourage your dog to lick it up. Some are designed as slow feeders and hold kibble to help slow down dogs who Hoover their meals. ...

Food-motivated dogs will become determined to lick up the last bit of treat or extract the very last kibble, while the repetitive licking provides a calming effect that is generally soothing to dogs and can also be helpful to distract pets

---

*See also* the MACMILLAN DICTIONARY (macmillan.com) defining “Lick,” as “to move your tongue across something, especially in order to eat it, clean it, or make it wet.” November 24, 2020 Office Action (TSDR 16).

<sup>6</sup> February 9, 2022 Request for Reconsideration (TSDR 36). *See also* the MacMillan Dictionary (macmillan.com) defining “Mat,” inter alia, as “a small piece of thick rough cloth that is put on the floor to protect it or for decoration.” November 24, 2020 Office Action (TSDR 21).

from anxiety-inducing situations, such as thunderstorms and fireworks.

And, of course, the toy simply keeps pets busy for a while as it helps to stave off boredom.<sup>7</sup>

- “Lick Mat Guide: What They Are, How to Use Them, and Why They’re Great (+ Lick Mat Filler Ideas)” posted on the BindisBucketList website (bindisbucketlist.com).

### **What is a Lick Mat?**

A LickiMat [sic] is a grooved mat that encourages the act of licking. Usually made of TPR rubber or silicone, most lick mats have individual patterns and textured surfaces that create a grazing image. These textures and patterns help lock food in so that your dog actively licks at their meal or treat, as opposed to the normal chomping and gobbling.

### **Why use a Lick Mat?**

Using a lick mat encourages the act of licking, which releases pleasure endorphins in your dogs [sic] brain.<sup>8</sup>

- Business Insider website (businessinsider.com) posting its ratings for the best lick mats.<sup>9</sup> For example:

- Best multiuse lick mat: Mighty Paw Dog Lick Pad
- Best dog lick mat for bathing: Aquapaw Slow Treater
- Best dog lick mat with suction: Perfect Curve Lick Lick Pad

---

<sup>7</sup> August 10, 2021 Office Action (TSDR 6-7).

<sup>8</sup> August 10, 2021 Office Action (TSDR 14).

<sup>9</sup> August 10, 2021 Office Action (TSDR 25).

Serial No. 90093231

Serial No. 90093238

**The best slow feeder dog lick mat**



An easy solution for dogs who eat too fast Cosmic Pet

**The Hyper Pet IQ Entertain Treat Mat with its four sections is a great way to slow down your dog while they eat.**

- “7 Best Lick Mats for Dogs” (July 16, 2021) posted on the Dog Endorsed website (dogendorsed.com) rating the seven best dog mats on the market.<sup>10</sup>
- “Lick Mat Guide: Recipes, Benefits & How to Clean” (March 23, 2021) posted on the Pupford website (pupford.com).

---

<sup>10</sup> August 10, 2021 Office Action (TSDR 30).



We've been hearing a lot of questions lately about lick mats – their benefits, what to put on them, how to clean them, things like that.

Today we're going to give you the ultimate lick mat guide, answering all those questions and more if you haven't already heard of a lick mat, yet, it's exactly what it sounds like! It's a textured mat designed to engage your pup by challenging them to lick every last bit of goodies off their mat.<sup>11</sup>

- Amazon.com advertising a “slow dose dog mat for bathing, grooming and dog training.” The advertisement provides the following:

Dog Anxiety Relief Mat – The repetitive act of licking is incredibly relaxing for your dog, promoting calming behaviors in anxiety and stressful situations like car rides, bath time, and separation anxiety. Mount them with a **lick mat**, ideal for cats, puppies, small and medium dogs. (Emphasis added).<sup>12</sup>

---

<sup>11</sup> August 10, 2021 Office Action (TSDR 19-20).

<sup>12</sup> August 10, 2021 Office Action (TSDR 10).

Serial No. 90093231  
Serial No. 90093238

- Chewy website (chewy.com) advertising a “Frisco Silicone Treated Lick Mat.”<sup>13</sup>

We reproduce below a photograph of the lick mat advertised on Chewy.com:



The Chewy.com website describes the product as follows:

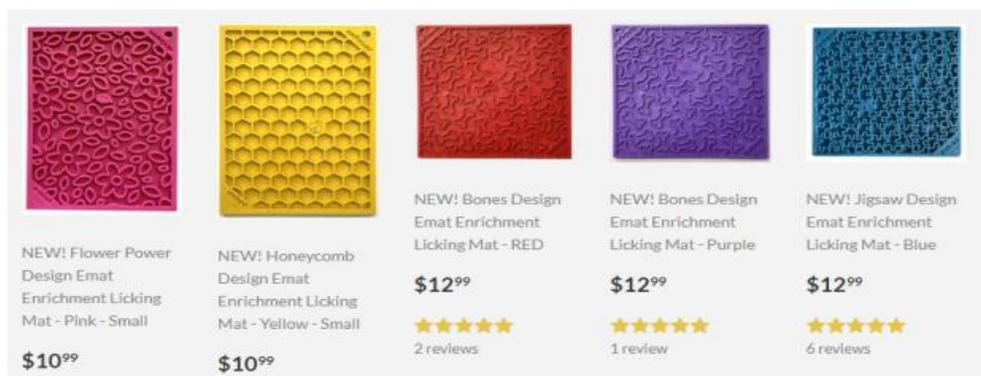
It’s a textured way to give your dog a tasty treat! The Frisco Silicon Lick Mat is a fun way to treat your dog or distract them when needed. Simply spread a treat such as peanut butter all over the textured mat and let your four-legged friend have at it.<sup>14</sup>

- SodaPup website (sodapup.com) advertising lick mats.<sup>15</sup>

### Lick Mats

E-mats by SodaPup are enrichment mats made for licking.

...



<sup>13</sup> August 10, 2021 Office Action (TSDR 11).

<sup>14</sup> August 10, 2021 Office Action (TSDR 11).

<sup>15</sup> August 10, 2021 Office Action (TSDR 15).

- Pupford website (pupford.com) advertising a “Pure Focus Lick Mat.”<sup>16</sup>

The Examining Attorney submitted five websites posting articles or ratings about lick mats and four websites advertising the sale of lick mats. These materials show third parties using the term LICK MAT to describe the purpose of Applicant’s feeding receptacles and pet toys; that is, the products are pads that pets lick for purposes of feeding or amusement. The third-party use of LICK MAT shows that the components of the proposed mark in its entirety retain their individual descriptive meanings.

Applicant argues that because there is no dictionary definition for LICK MAT or LICKMAT “the Examining Attorney *must show that the term has a ‘well recognized meaning’* to establish mere descriptiveness.”<sup>17</sup> First, the fact that a term is not found in a dictionary is not controlling on the question of registrability if the examining attorney can show that the term has a well understood and recognized meaning. *See In re Hikari Sales USA, Inc.*, 2019 USPQ2d 111514, at \*1, \*8 (TTAB 2019) (citing *In re ActiveVideo Networks, Inc.*, 111 USPQ2d 1581, 1603 (TTAB 2014); *In re Dairimetics, Ltd.*, 169 USPQ 572, 573 (TTAB 1971)) (holding ALGAE WAFERS merely descriptive of fish food although the term was not found in the dictionary); *In re Orleans Wines, Ltd.*, 196 USPQ 516, 516-17 (TTAB 1977) (holding BREADSPRED merely descriptive of jellies and jams although the term was not found in the dictionary).

---

<sup>16</sup> August 10, 2021 Office Action (TSDR 24).

<sup>17</sup> Applicant’s Brief (6 TTABVUE 5 and 12).

Second, the evidence discussed above demonstrates that retailers and pet writers use the term LICK MAT to describe a pad that pets lick for feeding or amusement. For example, “Lick mats are a type of enrichment toy for dogs and cats, like puzzle toys.”<sup>18</sup>

Applicant contends that because the website articles define the term LICK MAT, LICK MAT is not merely descriptive because there would be no need to define the term if it directly conveyed information about the nature, quality, function, or characteristics of the products.<sup>19</sup> There are two problems with Applicant’s contention. First, as a matter of good writing form, the authors define the term lick mat to introduce the reader to the subject of the article. Second, the definitions of lick mat by the authors of the articles uniformly define a lick mat as a mat that pets lick for feeding or amusement.

Applicant argues that LICKMAT is not merely descriptive because “both the terms ‘lick’ and ‘mat’ have a wide variety of possible meanings.”<sup>20</sup> However, as discussed above, we do not analyze descriptiveness in a vacuum but in conjunction with the goods on which the mark is used. Specifically, “[w]e ask ‘whether someone who knows what the goods and services are will understand the mark to convey

---

<sup>18</sup> “Lick Mats for Dogs: Out Dog-Tested Review,” posted on The Dog People website (rover.com) attached to the August 10, 2021 Office Action (TSDR 6).

<sup>19</sup> Applicant’s Brief (6 TTABVUE 5-7).

<sup>20</sup> Applicant’s Brief (6 TTABVUE 8). Applicant makes the same argument with different wording when it also contends that LICK MAT and LICKMAT are suggestive, not descriptive, because they do not “immediately convey the specific type of goods or even the general field in which the goods or services might be classified.” *Id.* at TSDR 14.

information about them.” *Fallon*, 2020 USPQ2d 11249, at \*7 (quoting *Real Foods Pty Ltd. v. Frito-Lay N. Am., Inc.*, 906 F.3d 965, 128 USPQ2d 1370, 1374 (Fed. Cir. 2018) (quoting *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012) (internal quotation omitted)). Thus, we analyze whether LICK MAT or LICKMAT is merely descriptive when used in connection with feeding receptacles for pets and pet toys.

After reviewing the evidence of record and considering the arguments by Applicant and the Examining Attorney, we find that LICK MAT and LICKMAT are merely descriptive when used in connection with feeding receptacles for pets and pet toys.

**Decision:** We affirm the Section 2(e)(1) refusals to register Applicant’s marks LICK MAT and LICKMAT.